

### **Remarks/Arguments**

#### **I. Status of the Claims**

Claims 1-5 are pending. Claims 6-17 have been withdrawn. Claims 1-5 stand rejected.

#### **II. Claim Rejections – 35 USC § 102**

Claims 1-3 and 5 have been rejected under 35 USC § 102(b) as being anticipated by O’Riordan et al (EP 583,148 A2) (“O’Riordan”). Applicants respectfully submit that this rejection should be withdrawn. O’Riordan does not disclose “collecting a biological fluid *by natural flow*” Instead, O’Riordan contemplates using a pump. For example, O’Riordan teaches the use of a “vacuum pump 13” (p. 3, l. 33) or a “peristaltic pump 42” (p. 4, ll. 56-57) located on “the tubing segment 22.” Therefore, O’Riordan does not teach or suggest “collecting a biological fluid *by natural flow*.”

For at least these reasons, Applicants respectfully request the withdrawal of the rejection of claim 1 and corresponding dependent claims 2-5.

#### **III. Claim Rejections – 35 USC § 103**

Claim 4 has been rejected under 35 USC § 103(a) as being unpatentable over O’Riordan et al (EP 583,148 A2). Applicants respectfully submit that this rejection should be withdrawn. Claim 4 depends from claim 1, which recites “collecting a biological fluid *by natural flow*.” As discussed above, O’Riordan does not disclose or teach this, but instead contemplates the use of a pump.

For at least these reasons, Applicants respectfully request the withdrawal of the rejection of claim 4.

#### **IV. Provisional Rejections – Double Patenting**

Claims 1-5 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 15-21 of copending Application No. 11/196,706. Applicants respectfully submit that this rejection should be withdrawn. Copending Application No. 11/196,706 does not claim “measuring a fluid flow *rate*.” Instead, the claims Application No. 11/196,706 include “measuring a *volume*” or “calculating a *theoretical volume*.”

For at least these reasons, Applicants respectfully request the withdrawal of the provisional rejection of claims 1-5.

**V. Conclusion**

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and solicit timely notice of the same. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record.

Applicants believe that no fees are due. However, should the Commissioner deem that any fees are due, the Commissioner is authorized to debit Baker Botts L.L.P. Deposit Account No. 02-0383, Order Number 062908.0115, for any payment of associated fees, underpayment of fees, or to credit same with any overpayment of fees that may occur in association with this filing.

Respectfully submitted,



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